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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 RAD POWER BIKES LLC,

11 Plaintiff,

12 v.

13 JHR ELECTRIC TRANSPORT  
14 LLC,

15 Defendant.

CASE NO. C19-0496JLR

ORDER DENYING  
DEFENDANT’S MOTION TO  
STAY DISCOVERY

16 **I. INTRODUCTION**

17 Before the court is Defendant JHR Electric Transport LLC’s (d/b/a Bam Power  
18 Bikes) (“JHR”) motion for a continuance of case deadlines and protective order staying  
19 discovery until the court rules on JHR’s pending motion to dismiss. (Mot. (Dkt. # 15);  
20 *see also* MTD (Dkt. # 12).) Plaintiff Rad Power Bikes LLC (“Rad Power Bikes”)  
21 opposes the motion. (Resp. (Dkt. # 18).) JHR filed a reply. (Reply (Dkt. # 20).) The  
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1 court has considered the motion, the parties' submissions concerning the motion, and the  
2 applicable law. Being fully advised, the court DENIES JHR's motion.

## 3 II. BACKGROUND

4 Rad Power Bikes is a Washington State limited liability company that sells hybrid  
5 and electric bicycles. (Compl. (Dkt. # 1) ¶¶ 1, 4.) JHR, an Arizona limited liability  
6 company, also sells electric bicycles. (*Id.* ¶ 5.) In April 2019, Rad Power Bikes filed  
7 claims against JHR for copyright infringement under the Copyright Act, false advertising  
8 and false association under the Lanham Act, and unfair competition under Washington  
9 law. (*Id.* ¶¶ 15-34.)

10 On May 16, 2019, JHR filed a motion to dismiss. (*See* MTD.) JHR argues that  
11 the court should dismiss Rad Power Bikes' claims under Federal Rule of Civil Procedure  
12 12(b)(2) for lack of personal jurisdiction. (*See id.* at 5-10); *see also* Fed. R. Civ. P.  
13 12(b)(2). Alternatively, JHR argues that the court should dismiss the action under  
14 Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can  
15 be granted. (MTD at 10-14); *see also* Fed. R. Civ. P. 12(b)(6). JHR's motion to dismiss  
16 is noted for June 7, 2018. (*See* MTD.)

17 In the present motion, JHR asks the court "to continue case deadlines and issue a  
18 protective order staying discovery until it can rule on JHR's motion to dismiss." (Mot. at  
19 1.) JHR argues that it "should not have to respond to Washington discovery or prepare  
20 for and attend depositions unless the [c]ourt determines that it is subject to jurisdiction  
21 here." (*Id.*) According to JHR, permitting Rad Power Bikes to engage in discovery

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1 before the court’s ruling on JHR’s motion to dismiss would impose “an undue burden” on  
2 JHR. (*Id.* at 3.)

### 3 III. ANALYSIS

4 Upon a showing of “good cause,” the court may limit the time, place, and manner  
5 of discovery, or stay discovery altogether, as required “to protect a party or person from  
6 annoyance, embarrassment, oppression, or undue burden or expense.” Fed. R. Civ. P.  
7 26(c). “For good cause to exist, the party seeking protection bears the burden of showing  
8 specific prejudice or harm will result if no protective order is granted.” *Phillips ex rel.*  
9 *Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002). The  
10 showing must be particularized. *Id.* “[B]road allegations of harm, unsubstantiated by  
11 specific examples or articulated reasoning, do not satisfy the Rule 26(c) test.” *Beckman*  
12 *Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992). A party seeking a stay of  
13 discovery carries a “heavy burden” to make a “strong showing” why discovery should be  
14 denied. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir.1975) (citation  
15 omitted).

16 The court finds that JHR has not demonstrated good cause to stay discovery  
17 pending the court’s ruling on JHR’s motion to dismiss. JHR fails to show that it will  
18 suffer “specific prejudice or harm” should discovery proceed. *See Phillips*, 307 F.3d at  
19 1210. JHR makes only the broad argument that the court should not “requir[e] JHR to  
20 devote substantial resources to a Washington action” before ruling on its motion to  
21 dismiss. (Mot. at 3.) This generalized complaint falls short of the “strong showing”  
22 required for the court to stay discovery. *See Blankenship*, 519 F.2d at 429; *see also*

1 *Intellicheck Mobilsa, Inc. v. Honeywell Int’l, Inc.*, No. C16-0341JLR, 2017 WL 4221091,  
2 at \*5 (W.D. Wash. Sept. 21, 2017) (“[A] pending motion to dismiss ‘is not grounds for  
3 staying discovery.’”) (quoting *Old Republic Title, Ltd. v. Kelley*, No. C10-0038JLR, 2010  
4 WL 4053371, at \*4 (W.D. Wash. Oct. 13, 2010)); *Gray v. First Winthrop Corp.*, 133  
5 F.R.D. 39, 40 (N.D. Cal. 1990) (“Had the Federal Rules contemplated that a motion to  
6 dismiss under Fed. R. Civ. Pro. 12(b)(6) would stay discovery, the Rules would contain a  
7 provision to that effect. In fact, such a notion is directly at odds with the need for  
8 expeditious resolution of litigation.”). The court thus DENIES JHR’s motion to continue  
9 the case deadlines and stay discovery.

10       Should the parties encounter future discovery-related disputes, the parties must  
11 attempt to resolve those disputes by agreement, if possible. *See* Local Rules W.D. Wash.  
12 LCR 37(a)(1). In addition, pursuant to Federal Rule of Civil Procedure 16, the court  
13 “direct[s] that before moving for an order relating to discovery, the movant must request  
14 a conference with the court” by jointly telephoning chambers with the opposing party.  
15 *See* Fed. R. Civ. P. 16(b)(3)(B)(v).

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Dated this 28th day of May, 2019.

The Honorable James L. Robart  
U.S. District Court Judge